

The Washington City Council met in a regular session on Monday, June 22, 2015 at 5:30pm in the City Council Chambers at the Municipal Building. Present were: Mac Hodges, Mayor; Doug Mercer, Mayor Pro tem; William Pitt, Councilman; Richard Brooks, Councilman; Larry Beeman, Councilman; Bobby Roberson, Interim City Manager; Cynthia S. Bennett, City Clerk and Franz Holscher, City Attorney.

Mayor Hodges called the meeting to order and Councilman Pitt delivered the invocation.

APPROVAL OF MINUTES:

By motion of Mayor Pro tem Mercer, seconded by Councilman Beeman, Council approved the minutes of June 8, 2015 as presented.

APPROVAL/AMENDMENTS TO AGENDA:

Mayor Hodges reviewed the requested amendments to the agenda:

- **Add – Under Old Business Item C:** Revised Chamber Easement and Easement Agreement
- **Add – Under Any other business from the Mayor or other Members of Council:**
Updates/comments from Mayor Pro tem Mercer regarding ElectriCities

By motion of Mayor Pro tem Mercer, seconded by Councilman Beeman, Council approved the agenda as amended.

CONSENT AGENDA:

By motion of Mayor Pro tem Mercer, seconded by Councilman Beeman, Council approved the Consent Agenda as a presented.

A. Declare Surplus/Authorize – Electronic Auction of vehicle through GovDeals

<u>Vehicle #</u>	<u>Make/Model</u>	<u>Department</u>	<u>Serial Number</u>	<u>Odometer</u>
6001	1600A Vermeer Chipper	Electric	1BRC14183J130141	N/A

B. Adopt – Capital Project Ordinance and a Budget Ordinance Amendment for the Washington Downtown Properties Development project

**A CAPITAL PROJECT ORDINANCE FOR WASHINGTON DOWNTOWN PROPERTIES
CITY OF WASHINGTON, N.C. FOR FISCAL YEARY 2014-2015**

BE IT ORDAINED, by the City Council of the City of Washington, North Carolina, that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project is hereby established:

Section 1. The project authorized is for the acquisition and development of two downtown properties.

Section 2. The officers of this unit are hereby directed to proceed with the project within the terms of the development.

Section 3. The following amounts are appropriated for the project:

53-60-4930-0400	Professional Services	\$40,000
53-60-4930-0401	Legal	3,000
53-60-4930-0405	Engineering	19,500
53-60-4930-7100	Acquisition(ernest deposit)	<u>23,000</u>
	Total	\$85,500

Section 4. The following revenue is anticipated to be available to complete this project:

53-60-3480-0000	Developer Fee	\$57,500
53-60-3480-1000	Transfer from General Fund	3,000
53-60-3480-2000	Committee of 100	<u>25,000</u>
	Total	\$85,500

- Section 5. The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the requirements of the developer agreements.
- Section 6. Funds may be advanced by the General Fund for the purpose of making payments as due.
- Section 7. The Finance Director is directed to report, on a monthly basis, on the financial status of each project element in Section 3 and on the total capital project revenues received or claimed.
- Section 8. The Budget Officer is directed to include a detail analysis of past and future costs and revenues on this capital project in every budget submission made to the City Council.
- Section 9. Copies of this capital project ordinance shall be furnished to the City Clerk, and to the Budget Officer, and to the Finance Director for direction in carrying out this project.
- Section 10. All ordinances or parts of ordinances in conflict herewith are hereby repealed.
- Section 11. This ordinance shall become effective upon its adoption.

Adopted this the 22nd day of June, 2015.

ATTEST:

s/Cynthia S. Bennett
City Clerk

s/Mac Hodges
Mayor

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE OF THE CITY OF
WASHINGTON, N.C. FOR THE FISCAL YEAR 2014-2015**

BE IT ORDAINED by the City Council of the City of Washington, North Carolina:

- Section 1. That the Estimated Revenues in the General Fund be increased for the Washington Downtown Property Development project in the following account:
- | | | |
|-----------------|---------------------------|---------|
| 10-00-3991-9910 | Fund Balance Appropriated | \$3,000 |
|-----------------|---------------------------|---------|
- Section 2. That the General Fund appropriations budget be increased or decreased in the following account:
- | | | |
|-----------------|----------------------------------|---------|
| 10-00-4400-6200 | Transfer to Capital Project Fund | \$3,000 |
|-----------------|----------------------------------|---------|
- Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.
- Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 22nd day of June, 2015.

ATTEST:

s/Cynthia S. Bennett
City Clerk

s/Mac Hodges
Mayor

COMMENTS FROM THE PUBLIC: NONE

PUBLIC HEARING – ZONING: NONE

PUBLIC HEARING: NONE

SCHEDULED PUBLIC APPEARANCES: JAMES PATTERSON – FUNDRAISING EVENT

Mr. Patterson explained the event he envisioned is a half marathon and will be part of the event “Cure for Epilepsy”. He continued by saying he will need approval for the City permits.

Mayor Hodges inquired what would be included in the event and Mr. Patterson suggested half and full marathon to be run at the same time. He noted he has been working with Teresa Hamilton, Parks and Recreation as well as the Police and Fire Services Director.

Interim City Manager, Bobby Roberson advised Mr. Patterson to schedule a meeting with the City Manager’s office in order to get pre-clearance for the race routes.

CORRESPONDENCE AND SPECIAL REPORTS:
DISCUSSION – GRANT UPDATES

Councilman Pitt requested an update on Keys Landing in which Mr. Roberson provided. Mr. Roberson said it was his understanding that the project was moving along. If the July 1st deadline is not met, the City is responsible for \$75,000 repayment of the grant.

Grant Executive Summary
as of 5/31/2015

Active	Fund	Grant Description	Dates			Financials				Deliverable				Notes
			Award	Expiration	Completion	Revenue		Expense		Metric	Total	Achieved	Bal.	
						Budget	Actual	Budget	Actual					
50	CDBG Affordable Housing		04/09/10	10/31/14	09/30/15	227,700	185,719	227,700	185,719	LMI homes	10	6	4	6 completed, 2 lots released June 3rd
52	Comprehensive Bicycle Plan		05/28/11	12/31/13	06/30/15	35,000	30,430	35,000	35,000					0 Pending final DOT approval
55	IdX Impressions NC One Grant		09/30/13	09/30/16		300,000	-	300,000	-	Jobs/Investment	160	0	160	Jobs created but not since award date
59	IdX Building Reuse		12/18/15	12/18/16		512,500	4,000	512,500	2,500	Jobs/Investment	50		50	Grant agreements executed, Mid-East administering
61	Pedestrian Plan Grant		05/20/13	09/30/13	12/31/14	10,000	10,000	10,000	-					0 Committee formed and meeting
66	Airport Terminal Grant		04/04/13	07/01/15	03/31/15	1,254,488	1,073,036	1,254,488	1,020,015					0 Terminal opened Memorial Day
67	Facade Grant Program		07/01/13	06/30/14		20,000	20,030	20,000	12,912					0 In progress, 7 reimbursed, 3 pending
69	Way Finding				04/01/15	150,000	150,398	150,000	14,913					Reviewing w/ DOT, cost estimate & recommendation in progress
71	Airport Lighting Rehab					460,121	82,353	460,121	43,114					Contract signed, construction to commence mid July
72	Municipal Pier Access Grant		07/01/14	11/30/15		135,000	15,000	135,000	-					Piling driving moratorium, complete by Nov 30th
75	Firefighter's Assistance- Exhaust		08/08/14	08/07/15		50,000	30,933	50,000	38,920					Exhaust system complete, other equipment being ordered
76	EDA Water Projects		09/11/13	03/11/17	02/28/17	1,428,262	706,133	1,428,262	42,140					0 Construction begun on 16" water line
77	EDA Sewer Grants		09/11/13	03/11/17	02/28/17	1,423,894	703,974	1,423,894	177,459					0 Bid awarded January 2015, notice to proceed Feb. 23
	CDBG Keysville Rd.		2005	6/4/2013	06/30/16	320,000	320,000	320,000	320,000					0 Lot 1 does not qualify for LMI, Construction on lot 2 & 3 near compl.
32	TAG- Sanitary sewer study		05/12/14		09/09/14	35,000	-	35,000	35,000					Completed, reimbursement approved
37	Airport Approach Survey		07/01/14	07/01/16		16,986	14,161	18,873	15,734					Survey completed
10	NC Cardinal		07/01/14		06/30/15	22,345	9,252	22,345	20,366					Grant awarded, complete by 6/30/15
10	Historic Preservation Grant		07/01/14	08/21/15		11,000	-	15,000	1,000					PO issued to update National Registry inventory

Applications	Pre-App	Selected	Final App	Grant	Match	Total	
FEMA AFG Fire Engine/Resc. Tools	11/30/14			353,929	18,571	372,500	Application submitted
Havens Garden PARTF				250,000	250,000	500,000	Application submitted, award notification July
EZ Technology Library Grant	6/9/15			5,000	0	5,000	Application submitted
Sewer I&I rehab/CWSRF				2,000,000		2,000,000	\$1.5 million 0% interest, \$.5 million principal forgiveness

DISCUSSION – PROJECT UPDATES

Fund/Department	Account	Description	Budget \$	Spent	Open PO	Balance	Status	Notes
General Fund:								
IT	10-00-4132-7400	Wireless Bridge- sewer plant	1,204	1,168	0	36	Completed PY, TDA phone move CR	1
		Redundant PRI	6,917	6,909	0	8	Complete	1
		Redundant Cisco phone svr.	19,063	19,017	0	46	Complete	1
		IP addressing	1,520	1,520	0	0	Complete	1
		Total IT	28,704	28,614	0	90		
Police	10-10-4310-7400	Vehicles	134,000	113,906	19,219	875	4 received, equipment on order	
Fire	10-10-4340-7400	Thermal imaging camera	8,105	8,094	0	11	Complete	1
		Support vehicle 1	30,164	30,161	0	3	Complete	
		Total Fire	38,269	38,255	0	14		
Planning	10-10-4910-7400	Streetscape	25,000	(4,600)	29,600	0	PO issued for design	
	10-10-4910-0400	Havens Garden Master Plan	7,200	7,200	0	0	Completed	
Powell Bill	10-20-4511-4500	Street Paving	251,820	243,580	8,240	0	Contract complete	2
Street Maintenance	10-20-4510-7400	Dump truck #454	63,915	63,816	0	99	Complete	
Library	10-40-6110-7400	PC virtualization	12,471	12,471	0	0	Complete	
Outside Agency	10-40-6170-9113	Veterans Park Sign	6,920	3,946	0	2,974	Complete	1,2
Rec. Maintenance	10-40-6130-7400	3rd St ball field RR	59,620	59,620	0	0	Complete	1
		Utility trucks # 807 & 810	65,213	65,213	0	0	Complete	
		Total Rec. Maintenance	124,833	124,833	0	0		
Total General Fund			693,132	632,020	57,059	4,052		
Water:								
Water Meter Svc.	30-90-7250-7000	AMR meters	110,000	77,285	30,696	2,019	Complete	1
Water Treatment	30-90-8100-7400	Van #552 & pickup #565	40,000	39,241	0	759	Complete	
Water Maintenance	30-90-8140-7400	Truck #414 body	8,402	8,399	0	3	Complete	1
Water Construction	30-90-8180-0400	16" VWL engineering	62,653	6,765	54,940	948	Design compl., construction has begun	1
	30-90-8180-7400	Summit Ave. water line	168,806	75,035	0	93,771	Complete	1,2
Total Water Fund			389,861	206,725	85,636	97,500		
Sewer:								
Wastewater Treatment	32-90-8220-7000	Blast & paint clarifiers 1&2	14,600	14,600	0	0	Complete	1
	32-90-8220-7400	Vehicle #548	24,974	24,911	0	63	Complete	
	32-90-8220-7400	Effluent control panel	20,510	20,510	0	0	Complete	
	32-90-8220-7400	Tractor equipment	15,816	15,816	0	0	Complete	
	32-90-8230-7400	Rebuild 5th&Respress pump c	40,000	39,771	0	229	Complete	
Lift Stations	32-90-8230-7400	Fountain L.S. generator	1,663	913	0	750	Complete	1
	Total Sewer Fund			117,563	116,520	0	1,043	

Fund/Department	Account	Description	Budget \$	Spent	Open PO	Balance	Status	Notes		
Electric:										
Electric Director	35-99-7220-0400	Peak Shaving Rate Study	8,962	8,962	0	0	Complete	1		
		Total Electric Director	8,962	8,962	0	0				
Electric Meter Service	35-99-7250-7400	Test Switches	1,740	1,740	0	0	Complete	1		
		Meters & handhelds	79,195	24,866	54,325	4	Complete			
		Total Electric Meter Svc.	80,935	26,606	54,325	4				
Substation Maint.	35-99-8370-7400	Eastern substation breaker	46,512				Complete	1		
		VOA recloser	20,000				Complete			
		Distribution reclosers	20,000				Complete			
		Capacitors	8,000				Complete			
		E. substation security system	2,500				Reevaluating project			
		FRHL & Whar St. bus metering	5,500				Complete			
		Chocowinity breaker rebuild	100,000				Complete			
		2nd/5th Feeder	100,000				Acquiring materials labor to be bid out			
		Main substation rebuild	250,000	0	0		Acquiring materials labor to be bid out			
		Total Substation	552,512	282,896	1,391	268,225				
Load Management	35-99-8375-7400	Load management switches	69,550	65,835	3,700	15	Complete, awaiting last of material			
Power Line Construction	35-99-8390-7400	2nd St./5th St Rebuild Engine	71,538				Complete	2		
		High School Feeder relocation	114,332				Complete	1,2		
		Grimesland Feeder Engineering	73,226				Complete	1,2		
		NC 32 Feeder Engineering	32,299				Complete	1,2		
		White Post/Slatestone Feeder	0				Delayed to FY 16	2		
		NC 32 Feeder rebuild	325,000				Under construction, 2nd mile matl. ordered			
		2nd St./5th St Rebuild	300,000				Materials are in			
		Line truck #617	230,000				PO #52951 expected delivery 09/15			
		Dually F350 #613	50,000				Complete			
		Portable air compressor	20,000				Delayed to FY 16			
		Total Power Line Constructi	1,216,395	389,396	348,802	478,197				
		Total Electric Fund			1,928,354	773,695	408,218	746,441		
		Solid Waste Collection:								
Solid Waste Collection:	38-99-4710-7400	Two leaf machines	51,100	51,042	0	58	Complete			
		Total Solid Waste	51,100	51,042	0	58				
Cemetery:										
Cemetery Fund	39-99-4740-5600 39-99-4740-7400	Storm drain repairs	7,223	7,223	0	0	Complete	2		
		Two equipment sheds	30,000	29,925	0	75	Complete			
		Total Cemetery	37,223	37,148	0	75				
Grand Total			3,217,233	1,817,150	550,913	849,169				
Notes: 1 PO carryforward 2 Project carryforward										

**MEMO – CLEAN WATER STATE REVOLVING FUND (CWSRF) –
LETTER OF INTENT TO FUND**
(memo accepted as presented) Allen Lewis, Public Works Director

At the February 23, 2015 Council meeting, Council granted staff permission to apply for a loan with CWSRF for an amount not to exceed \$2 million with the intent of performing sewer rehab work. We were not only successful in being awarded the amount which we applied for, but \$500,000 was awarded in the form of principal forgiveness which will not have to be paid back. The other \$1.5 million will be 0% interest loan.

Mayor Pro tem Mercer inquired about the scope of the project? Mr. Lewis advised we currently do not have the specific scope of the project. Mr. Lewis stated the ad will run in the Sunday newspaper for the engineering piece of the project. The majority of the funding will be used for lining gravity sewer pipes.

MEMO – REPORTING OF REALLOCATION OF FUNDING FOR FY 2014-2015
(memo accepted as presented) Matt Rauschenbach, C.F.O

The following reallocations of funding between divisions within the General Fund, Water Fund, Sewer Fund, Solid Waste Fund, and Cemetery Fund have been approved by the City Manager in order to cover overspent departments with inter-departmental funds, thus avoiding additional appropriations.

General Fund:

-Increased City Manager’s Department	19,000
-Decreased City Council Department	(4,250)
-Increased Municipal Building Department	4,250
-Increased Human Resources Department	14,405
-Increased Purchasing Department	2,160
-Increased Information Technology Department	1,345
-Increased Customer Service Department	27,000
-Increased Legal Services Department	12,000
-Decreased Code Enforcement Department	(25,000)
-Decreased Planning/Zoning Department	(20,000)
-Increased Equipment Services Department	4,514
-Increased Street Maintenance Department	4,425
-Decreased Powell Bill Department	(15,146)
-Increased Street Lighting Department	4,500
-Increased Recreation Administration Department	1,000
-Increased Aquatic Center Department	28,501
-Increased Buildings & Grounds Maint. Department	10,310
-Decreased Police Department	(49,000)

-Decreased E-911 Communications Department	(25,000)
-Increased EMS Department	40,776
-Decreased Economic Development Department	(40,000)
-Increased Debt Service Department	<u>4,210</u>
Total	\$ 0

Water Fund:

-Increased Public Works Administration Department	\$ 6,835
-Decreased Water Treatment Department	<u>(6,835)</u>
Total	\$ 0

Sewer Fund:

-Decreased Miscellaneous Non-Departmental	\$ (7,800)
-Increased Public Works Administration Department	6,950
-Decreased Wastewater Construction Department	(15,000)
-Decreased Wastewater Treatment Department	(4,750)
-Increased Sewer Lift Stations Department	<u>20,600</u>
Total	\$ 0

Electric Fund:

-Increased Debt Service Department	\$ 7,555
-Increased Electric Administration Department	5,455
-Increased Meter Services Department	9,195
-Decreased Load Management Department	(20,000)
-Increased Power Line Maint. Department	93,876
-Decreased Power Line Construction Department	<u>(96,081)</u>
Total	\$ 0

NCGS 159-15 states that this shall be reported to the Council at its next regular meeting and be entered in the minutes.

REPORTS FROM BOARDS, COMMISSIONS AND COMMITTEES: NONE

APPOINTMENTS: NONE

Discussion was held regarding the remaining vacancies on the various boards and commissions and the need to fill those positions.

OLD BUSINESS:

**ADOPT – RESOLUTION APPROVING/AUTHORIZING THE INTERIM CITY MANAGER
TO SIGN THE LEASE AGREEMENT BETWEEN THE CITY AND SOUND RIVERS INC.
FOR USE OF THE SECOND FLOOR OF THE OLD TRAIN DEPOT**

The City of Washington has allowed the Pamlico-Tar River Foundation, Inc. (PTRF) to use the second floor of the Old Train Depot for its offices. PTRF recently joined with the Neuse River Foundation and is now known as Sound Rivers, Inc. This lease agreement renews the lease for another year and changes the name to Sound Rivers, Inc. Mr. Roberson noted the agreement has been reviewed by the Sound Rivers Executive Director.

By motion of Councilman Pitt, seconded by Councilman Brooks, Council adopted a Resolution to approve/authorize the Interim City Manager to sign the lease agreement between the City and Sound Rivers Inc. for use of the second floor of the Old Train Depot.

STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT

LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter referred to as "Lease") is made and entered into as of the 1st day of July, 2015, by and between the CITY OF WASHINGTON, a municipal corporation of the State of North Carolina (hereinafter referred to as "Lessor"), and SOUND RIVERS, INC., a non-profit corporation organized and existing under North Carolina law (hereinafter referred to as "Lessee" or "Sound Rivers").

WITNESSETH

WHEREAS, Lessor owns the building known to the parties as the Old Depot or Atlantic Coastline Depot located at 108 North Gladden Street, Washington, North Carolina (hereinafter referred to as "Old Depot") which consists of two stories. Lessee has occupied as well as utilized an existing first floor entrance dedicated to Sound Rivers, an existing stairway dedicated to Sound Rivers, and the second story of the Old Depot for a number of years (hereinafter referred to as "Premises").

WHEREAS, Lessee's purpose is to monitor, protect and enhance the Tar-Pamlico River and watershed while promoting environmental justice.

WHEREAS, Lessee has leased the Premises from Lessor for a number of years, has negotiated with Lessor, and desires to lease said Premises from Lessor for another year, which Premises will be utilized to further Lessee's above stated purposes.

WHEREAS, Lessor has found the Premises to be surplus to its current needs and desires to lease the same to Lessee for another year.

WHEREAS, the City Council passed a Resolution authorizing this Lease.

NOW, THEREFORE, subject to the terms and conditions hereinafter set forth, Lessor does hereby lease and let unto Lessee and Lessee hereby takes and accepts, together with all privileges and appurtenances thereto, the Premises. In consideration of the mutual promises as well as covenants herein contained, the benefits to Lessor as well as Lessee, the benefits to the public as well as citizens of Washington and Beaufort County generally, and for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties do hereby agree as follows.

1. **Premises.** The Premises is as defined hereinabove. Lessor hereby expressly grants to Lessee the right to use said existing Sound Rivers dedicated first floor entrance and the existing Sound Rivers dedicated stairway for access to the second story of the Old Depot at all times during the term of this Lease as well as the right to use, in common with the public generally, all parking and other common areas associated with the Old Depot.

2. **Condition of Premises.** Lessee's taking possession of the Premises shall be

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against any person or group of persons in any manner prohibited by law and shall otherwise use the Premises in compliance with all other requirements imposed by or pursuant to Title VI of the Civil Rights Act of 1964 and as said regulations may be amended.

9. **Improvements and Alterations.** The parties recognize that Lessee has made and may need to make certain improvements and alterations to the Premises in order to use the Premises as hereinbefore provided. In addition to any other permitting or approval process that may be required, Lessee shall submit a written plan, including sketch, for all such improvements and alterations to, and receive approval thereof from, the City Manager. Lessee shall continually modify any existing improvements and alterations to the Premises as may be necessary to conform with such approval. It is expressly understood that such approval is subject to modification, in the discretion of the City Manager, and that, if such approval is modified, Lessee shall modify its improvements and alterations as may be necessary to comply with such modified approval. Any alteration or improvement that is made by Lessee without consent from Lessor or that is inconsistent, in Lessor's sole discretion, with Lessor's consent shall constitute default hereunder. All such improvements and alterations made with Lessor's consent shall be properly maintained by Lessee, in Lessor's sole discretion.

a. All alterations, additions and improvements made by, for or at the direction of Lessee shall become the property of Lessor and shall remain upon and be surrendered with the Premises as a part thereof at the expiration or earlier termination of this Lease without compensation therefor and as further consideration for this Lease. Lessee shall promptly pay and discharge any and all licenses, imposts, liens or other charges arising out of or in connection with the performance of any act required of or permitted by Lessee hereunder and shall keep the Premises free and clear from any and all such liens or charges.

10. **City's Right Of Entry.** The City Manager or his designee shall have the right to enter and to grant licenses to others to enter the Premises for such lengths of time as Lessor shall deem reasonable a) to inspect the Premises; b) to exhibit the Premises to prospective tenants or purchasers of the Premises; c) after reasonable notice to Lessee, to make alterations, additions, improvements and repairs to the Premises or to the building and to store necessary materials, tools and equipment for such alterations or repairs; d) after reasonable notice to Lessee, for any purpose which Lessor shall deem necessary for the operation and maintenance of the Premises, including building, and the general welfare and comfort of its tenants; e) after reasonable notice to Lessee, for the purpose of removing from the Premises any placards, signs, fixtures, alterations or additions not permitted by this Lease or applicable regulation; and f) after reasonable notice to Lessee, to abate any condition which constitutes a violation of any covenant or condition of this Lease.

11. **Insurance.**

a. Lessee shall, at its expense, obtain and maintain for the duration of this Lease the following insurance coverages:

i. Statutory Workers' Compensation Insurance in amounts required by law and, unless exempted by applicable law, Employer's Liability Insurance at a

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conclusive evidence as against Lessee that Lessee has carefully inspected the Premises and accepted the Premises AS IS and that Lessor is under no duty to repair anything, furnish any services for, or otherwise improve in any way the Premises.

3. **Term.** The term of this Lease shall commence as of the 1st day of July, 2015 and shall continue on a month by month basis until the 30th day of June, 2016, unless terminated earlier by either party as herein provided. This Lease may be terminated upon thirty (30) days written notice by either party. Neither party shall have or make any claim, for damages or otherwise, upon the other should either party elect to exercise its right to early, unilateral termination hereunder.

4. **Rental.** In recognition of the benefits to the City of Washington and Beaufort County, their respective citizens, and the public at large that will result from the location and operation of Lessee in the Premises and the furtherance of Lessee's above stated purposes, Lessor shall waive any further sum due from Lessee for the use of the Premises, facilities, rights, services and privileges granted in this Lease.

5. **Assignment.** Lessee shall not assign its interest in this Lease, sublease any portion of the Premises, or permit third parties to occupy or use any portion of the Premises without Lessor's prior written consent, which consent may be withheld in Lessor's sole discretion. Notwithstanding the foregoing, Lessor expressly authorizes Lessee to utilize the Premises as herein described and expressly authorizes Lessee to provide such access to the Premises as is necessary to and for third parties to participate in, and contribute to, activities in furtherance of Lessee's above stated purposes.

6. **Use of Premises.** Lessee shall use the Premises during the term of this Lease for the purposes specified herein and none other. Lessee shall not make any unlawful or offensive use of the Premises and agrees to keep the same in good maintenance and aesthetically pleasing appearance.

7. **Care and Maintenance.** Lessee shall not be responsible for any maintenance to the exterior of the Premises. Lessor, in its sole discretion, shall be responsible for any maintenance to the exterior of the Premises. Lessee agrees, at Lessee's own expense and as additional consideration for this Lease, to maintain the interior of the Premises in an attractive manner and in compliance with any and all ordinances of the City of Washington. Lessee shall adequately secure the Premises when Lessee is not utilizing the same in order to prevent unsupervised access by the public. Lessee shall pay for the repair of any and all damages to the Premises caused by Lessee, its agents, members, employees, invitees, guests, customers, their respective successors and assigns, or any of them (hereinafter referred to as "Lessee's Repair Obligation"). With the exception of Lessee's Repair Obligation, the parties agree that, if any portion of the Premises (including any HVAC, electrical or plumbing units or systems) need repair or replacement during the term, neither party shall have the obligation to undertake such repairs or replacements. If either party elects to make such repairs or replacements, it will be on such terms as may be agreeable to Lessee and Lessor.

8. **Discrimination.** Lessee, in its use, improvement, or operation of the Premises, shall not, on the grounds of race, color, sex, or national origin, discriminate or permit discrimination

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minimum of \$500,000.00 for bodily injury by accident each employee and \$500,000.00 for bodily injury by disease each employee, with a policy limit of \$500,000.00 bodily injury by disease; and

ii. Commercial General Liability Insurance, including contractual liability, personal and bodily injury, property damage, advertising injury, premises, and operations coverage at a minimum of \$1,000,000.00 per occurrence and \$1,000,000.00 aggregate.

The Commercial General Liability Insurance policy shall list Lessor as additional insured. Each such policy shall provide that it is not subject to cancellation or reduction in coverage except after thirty (30) days following notice to Lessor. Lessee shall deliver to Lessor certificates of insurance for all insurance policies required hereunder. Lessee shall, within a reasonable period of time prior to the expiration of any such policy, furnish Lessor with certificates of insurance evidencing renewal thereof. Lessor may, in its sole discretion, require Lessee to expand the form and/or increase the amounts of all such insurance.

b. Throughout the term of this Lease, Lessor shall carry fire and extended coverage insurance insuring its interest in the building and the Premises, such insurance to be written by insurance companies and in amounts satisfactory to Lessor. Throughout the term of this Lease, Lessee shall carry fire and extended coverage insurance insuring its interest, if any, in improvements to or in the Premises, its contents, and its interest in its furniture, equipment, supplies or other property.

c. Lessee shall not do or cause to be done or permit on the Premises anything deemed extra hazardous and Lessee shall not use the Premises or the building in any manner which will cause an increase in the premium rate for any insurance in effect on the Premises, building, or part thereof. If, because of anything done, caused to be done, permitted or omitted by Lessee or its agents, servants or employees, the premium rate for any kind of insurance in effect on the Premises shall be raised, Lessee shall pay Lessor on demand the amount of any such increase in premium. If Lessor demands that Lessee remedy the condition which caused any such increase in an insurance premium rate, Lessee shall remedy such condition within five (5) days after receipt of such demand.

12. **Waiver Of Subrogation.** Lessee releases and relieves Lessor and waives Lessee's entire rights of recovery against Lessor for loss or damage arising out of or incident to any of the perils insured against under this Lease as well as any of the perils insured against by any fire and/or extended coverage endorsement insurance policy Lessee might own, whether loss or damage is due to the negligence of Lessor or its agents, employees, and/or invitees. Lessee shall give notice to its insurance carriers that this waiver of subrogation is contained in this Lease and cause the carriers to accept this waiver of subrogation, to the extent permissible by applicable law.

13. **Fire or Other Casualty.** In the event that before or during the term of this Lease, the Premises or the building shall be damaged by fire or other casualty which renders the building,

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the Premises or any part of the building or the Premises untenable, Lessor shall, within twenty (20) days of actual notice of such fire or casualty, have the right to either 1) serve written notice upon Lessee of Lessor's intent to repair said damage or 2) if said damage renders so much of the Premises untenable that repair would not be feasible in Lessor's discretion, or if said damage shall have been occasioned by the act or omission of Lessee, its agents, members, employees, invitees, guests, or customers, serve written notice upon Lessee that this Lease is terminated without recourse on the part of Lessee. If Lessor shall elect to repair such damage, such repairs shall be commenced as soon as is practicable after such election and Lessor shall pursue such repairs diligently.

The preceding paragraph notwithstanding, Lessor shall have no obligation to replace or repair any property in the building or on the Premises belonging to Lessee or to anyone claiming through or under Lessee nor shall Lessor have any obligation hereunder to replace or repair any property on the Premises which Lessor shall have the right to require Lessee to remove from the Premises or any alteration, addition or improvement made to the Premises by, for or at the direction of Lessee.

14. **Taxes and Assessments.** Lessee shall be responsible for and promptly pay before default any and all real and personal property taxes or special assessments, if any, that may be levied or assessed against the Premises or any improvements or other property therein, it being the mutual intention of the parties that Lessor shall not be required to pay any taxes on either real or personal property by reason of permitting Lessee to use said Premises as herein described. Lessee agrees to indemnify Lessor against any loss or liability resulting from any and all claims or liens in connection with such taxes and assessments.

15. **Utilities.** The provision of utilities (water, sewer, and electricity) as is customary for the Premises shall be continued. Any increase thereof shall require a separate agreement.

a. The first story of the Old Depot is leased to the City of Washington Tourism Development Authority ("TDA") by Lessor. Pursuant to the terms of said lease, TDA is responsible for the payment of any and all charges for utilities associated with the Old Depot (first and second stories). Lessee shall reach an agreement with TDA through which Lessee will contribute, or reimburse TDA for, a percentage of said charges for its share of utilities for so long as TDA leases the first story of the Old Depot from the City.

16. **Release, Waiver of Claims and Indemnity.** Lessee shall occupy the Premises at Lessee's own risk. Lessee for itself, its invitees, customers and guests and their respective parents, subsidiaries, affiliates, predecessors in interest, successors in interest, assigns and each of their respective officers, directors, employees, shareholders, agents, accountants, attorneys, insurance carriers, sureties, representatives, consultants and advisors, both past and present, hereby shall unconditionally waive, release, hold free and harmless, indemnify and defend Lessor and its present and former employees, officials, and elected officials in both their respective individual and official capacities, agents, personal representatives, attorneys, insurers, heirs, successors and assigns, and each of them, respectively, of, from, and for all and any manner of action or actions, cause and causes of action, claims, demands, costs, loss of services, expenses, attorney's fees, compensation and all consequential, compensatory, general, special and/or punitive damages or

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Such compliance shall include compliance by Lessee with the requirements of the Occupational Safety and Health Act, and all amendments thereto, as the same applies to Lessee's use of the Premises. Lessee shall not intentionally or knowingly use the Premises for any purpose or in any manner in violation of any law, ordinance, rule, or regulation adopted or imposed by any federal, state, county, municipal body, or other governmental agency. Lessee further agrees to indemnify and hold the City harmless for any and all damage of any kind arising from Lessee's failure to comply with the aforementioned rules and regulations, including, but not limited to, the cost of clean-up, restoration fees, mitigation costs, and attorney's fees caused or occasioned by Lessee. Nothing in this Lease shall be construed to obligate Lessee to make any improvements to the Premises in order for the Premises to comply with any applicable state, local, or federal laws, rules or regulations.

19. **Reports.** If requested by the City Manager, Lessee shall provide a report of such matters involving the Premises as may be required by the City Manager.

20. **Relationship of Parties.** In carrying out the terms and conditions of this Lease, Lessee is an independent party from Lessor and is not an agent or employee of Lessor. Nothing contained in this Lease shall create or be construed as creating a partnership, joint venture, or employee relationship in the eyes of the law between Lessor and Lessee.

21. **Waiver.** No waiver of any condition, covenant or restriction of this Lease by either party shall be deemed to imply or constitute a further waiver of the same or any other condition, covenant or restriction of this Lease.

22. **Surrender of Possession, Holding Over.** Upon the expiration or any other termination of this Lease, Lessee shall quit and surrender the Premises to Lessor. Within thirty (30) days of any such expiration or any other termination of this Lease, Lessee shall retain ownership of and shall remove any items of personal property and shall, upon notice from Lessor, remove any and all improvements and alterations described in such notice, including fixtures, made or placed on or about the Premises by Lessee and, consistent with such notice, return the Premises to its condition prior to any installation or placement of such item(s) or making of any such improvements or alterations thereon. Failure by Lessee to perform the obligations contained in this numbered paragraph 22 within said thirty (30) day period shall entitle Lessor to remove and dispose of said personal property, improvements, and alterations and recover all of its costs and expenses in doing so from Lessee. If Lessee shall remain in possession of the Premises or any part thereof after the expiration of the term of this Lease, either with or without Lessor's acquiescence, Lessee shall be deemed a tenant at will, and such holding over by Lessee shall in no way constitute a renewal of this Lease.

23. **Default.**

- a. The occurrence of one or more of the following events (hereinafter called "Events of Default") shall constitute a default by Lessee:
- i. Failure to perform any provision of this Lease if the failure to perform is not cured within ten (10) days after written notice thereof has been given to Lessee;

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liabilities, known or unknown, which may result directly or indirectly from or be in any way related to, connected with or growing out of this Lease, any breach, violation, or nonperformance of any covenant in this Lease on the part of Lessee to be observed or performed, Lessee's occupancy as well as use of said Premises, including use by agents, members, employees, invitees, customers, or guests of Lessee, and Lessee's operations. This provision shall survive the termination of this Lease and shall be in full force and effect beyond the term or termination of this Lease, however terminated.

The City shall not be liable to Lessee for any damage by or from any act or negligence of any co-tenant or other occupant of the Old Depot or by any owner or occupant of adjoining or contiguous property. Neither the City nor its agents shall be liable to Lessee or to any person, firm or corporation claiming through or under Lessee for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, glass, electricity, water, rain or snow or leaks from any part of the building or from the pipes, appliances or plumbing works or from the roof, street or subsurface or from any other place or by dampness or by any other cause of whatever nature, unless caused by or due to proven acts of negligence of the City. The City shall not be liable to Lessee or to any person, firm or corporation claiming through or under Lessee for any latent defect in the Premises or in the building.

17. **Notices.** Notices provided for in this Lease shall be sufficient if sent by registered mail, postage prepaid, and addressed as follows:

TO LESSOR: Attn: City Manager
City of Washington
Post Office Box 1988
Washington, NC 27889

TO LESSEE: Attn: Executive Director
Sound Rivers, Inc.
P.O. Box 1854
Washington, NC 27889

Any notice so given to either party hereunder shall be conclusively considered to have been received on the third business day following the proper mailing thereof. Each party shall give written notice to the other of any change of address at least thirty (30) days in advance of the date such change is to become effective, whereupon the address so given shall control.

18. **Adherence to Regulations.** Lessee shall comply with all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of and agreements with all governments, departments, commissions, boards, Courts, authorities, agents, officials, officers and other parties, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Premises, Lessee and Lessee's use of the Premises. Further, Lessee shall comply with any and all local, state, federal or other rules and regulations as well as all applicable environmental rules and regulations, including but not limited to such rules and regulations regulating hazardous or similar substances or conditions, their storage or disposal.

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- ii. Lessee files a voluntary petition in bankruptcy including a reorganization plan; makes a general or other assignment for the benefit of creditors; is adjudicated as bankrupt or if a receiver is appointed for the property or affairs of Lessee and such receivership is not vacated within sixty (60) days after the appointment of such receiver; and
- iii. Dissolution of Lessee.
- b. The occurrence of one or more of the following events of default shall constitute a default by Lessor:
- i. Failure to perform any provision of this Lease if the failure to perform is not cured within ten (10) days after written notice thereof has been given to Lessor.

24. **Remedies Upon Default.**

- a. Lessor shall have the absolute right upon default by Lessee to
- i. terminate this Lease;
- ii. enter the Premises without notice to vacate (any such right to which is hereby waived by Lessee), change any and all locks on the Premises, and re-let the Premises all without being liable for forcible entry, trespass, or other tort; and
- iii. collect from Lessee any damages resulting from Lessee's default, including the costs of repairing the Premises, and any reasonable attorney's fees incurred as a result of default.

Upon any reentry pursuant to this section, Lessor may, without liability to anyone, remove any personal property located on or about the Premises, whether belonging to Lessee or otherwise, and dispose of the personal property as Lessor deems proper or to store such property at Lessee's expense. Lessor is further authorized to sale or cause to be sold any such personal property so removed, the proceeds from which may be used to pay any storage charges against the property or to satisfy any delinquent rental or other monetary obligation due Lessor by Lessee.

- b. Lessee shall have the absolute right upon default by Lessor to vacate the Premises and return all keys to Lessor.

25. **Illegal Provisions, Governing Law.** If any provision of this Lease shall be declared illegal, void, or unenforceable, the other provisions shall not be affected, but shall remain in full force and effect. This Lease shall be governed by and construed in accordance with the laws of North Carolina.

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IN WITNESS WHEREOF, after due authority given, the parties hereto have executed this Lease as of the date first above written.

26. **Entire Agreement.** This Lease contains the entire agreement between the parties hereto with respect to the Lessor's use and occupancy of said Premises and all prior and contemporaneous agreements are merged herein, and this instrument shall not be altered or modified except in writing signed by all parties hereto.

(The Remainder Of This Page Intentionally Left Blank.)

PRE-AUDIT CERTIFICATE

This Lease has been pre-audited in accordance with North Carolina General Statute § 159-28 and in the manner required by the Local Government Budget and Fiscal Control Act.



Cynthia S. Bennett, City Clerk
City of Washington

Matt Rauschenbach
Matt Rauschenbach, Chief Financial Officer
City of Washington

LESSOR:
CITY OF WASHINGTON

By: Bobby Roberson
Bobby Roberson, Interim City Manager
City of Washington

LESSEE:
By: Harrison Marks
Harrison Marks, Executive Director
Sound Rivers, Inc.

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STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT

I, Reatha B. Johnson, a Notary Public of the State and County aforesaid, certify that **CYNTHIA S. BENNETT**, personally appeared before me this day and acknowledged that she is City Clerk of the **CITY OF WASHINGTON**, a North Carolina municipal corporation, and as the act of the corporation, the foregoing instrument was signed in its name by **BOBBY ROBERSON**, its Interim City Manager, sealed with its corporate seal and attested by herself as its City Clerk.

WITNESS my hand and official seal, this the 23 day of June, 2015

Reatha B. Johnson
NOTARY PUBLIC

My Commission Expires: 12/14/2019



STATE OF NORTH CAROLINA
COUNTY OF Beaufort

Before me, a Notary Public in and for the County and State aforesaid, this day personally appeared **HARRISON MARKS** and acknowledged that he is Executive Director of **SOUND RIVERS, INC.**, and acknowledged the due execution by him of the foregoing instrument for the purposes therein expressed.

Witness my hand and official seal, this the 26 day of June, 2015

Reatha B. Johnson
NOTARY PUBLIC

My Commission expires: 12/14/2019



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**RESOLUTION AUTHORIZING THE LEASE OF CERTAIN REAL PROPERTY
AND APPROVING THE LEASE OF SAID REAL PROPERTY PURSUANT TO
NORTH CAROLINA GENERAL STATUTE § 160A-272**

WHEREAS, the City of Washington (hereinafter may be referred to as "City") owns the building located at 108 North Gladden Street, Washington, North Carolina commonly known as the Old Depot (hereinafter referred to as "Old Depot").

WHEREAS, North Carolina General Statute § 160A-272 authorizes a city to lease any property owned by a city for such terms and upon such conditions as the council may determine so long as the council determines the property will not be needed by the city for the term of the lease and the council approves a resolution authorizing its execution (no public notice is required for a lease for a term of one year or less).

WHEREAS, Sound Rivers, Inc. (hereinafter referred to as "Sound Rivers") is a non-profit corporation whose purpose is to monitor, protect, and enhance the Tar-Pamlico River and watershed while promoting environmental justice.

WHEREAS, Sound Rivers has occupied as well as utilized an existing first floor entrance dedicated to Sound Rivers, an existing stairway dedicated to Sound Rivers, and the second story of the Old Depot for a number of years (hereinafter referred to as "Premises").

WHEREAS, Sound Rivers has leased the Premises from the City for a number of years, has negotiated with the City, and desires to lease said Premises from the City for another year, which Premises will be utilized to further Sound Rivers' above stated purposes.

WHEREAS, said Premises currently are surplus to the City and its City Council desires to lease the same.

THEREFORE, the City Council for the City of Washington resolves that:

1. The Premises are hereby declared to be surplus to the needs of the City for the term of the proposed lease.
2. The City Manager is authorized to further negotiate, if necessary, and execute the lease attached hereto.

Adopted this 22nd day of June, 2015.



Cynthia S. Bennett, City Clerk
City of Washington

Jay MacDonald
Jay MacDonald Hodges, Mayor
City of Washington

2015 Sound Rivers Lease for Second Floor Old Train Depot - v4

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ADOPT – 2015 YEAR END BUDGET AMENDMENT

The budget amendments are necessary to provide funds to close out the fiscal year.

1. Local Occupancy revenues and subsequent payments to the TDA are higher than expected.
2. TDA reimbursements to the City for Civic Center expenses are higher than expected.
3. Airport fund balance needs to be appropriated to cover additional operational expenses for the year.
4. June installment note payment in the Cemetery Fund was not originally budgeted (11 monthly payments budgeted instead of 12).
5. Library and Cemetery Trust Fund interest earned was higher than budgeted.

By motion of Mayor Pro tem Mercer, seconded by Councilman Beeman, Council adopted a Budget Ordinance Amendment to true up budget funding in preparation of the fiscal year closeout.

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2014-2015**

BE IT ORDAINED by the City Council of the City of Washington, North Carolina:

Section 1. That the Estimated Revenues in the General Fund be increased by the following amounts, in the accounts indicated.

10-00-3270-1110	Local Occupancy Tax	\$40,000
10-00-3970-1700	Adm. Charges from Civic Ctr.	<u>14,100</u>
		\$54,100

Section 2. That the following account number in the Miscellaneous Department of the General Fund appropriations budget be increased in the amount indicated.

10-00-4400-5705	Tourism Authority Pmts.	\$40,000
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Section 3. That the following account number in the Civic Center Department of the General Fund appropriations budget be increased in the amount indicated.

10-40-6125-0300	Salaries – Part Time	\$12,600
10-40-6125-0600	Group Insurance	<u>1,500</u>

Section 4. That the Estimated Revenues in the Airport Fund be increased by the following amount, in the account indicated.

37-90-3991-9910	Fund Balance Appropriated	\$12,000
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Section 5. That the following account numbers in the Airport Fund appropriations budget be increased in the amounts indicated.

37-90-4530-1100	Telephone	\$2,000
37-90-4530-1300	Water & Electric Services	<u>2,000</u>
37-90-4530-1500	Maint/Repair Buildings	<u>8,000</u>
		\$12,000

Section 6. That the Estimated Revenues in the Cemetery Fund be increased by the following amount, in the account indicated.

39-90-3991-9910	Fund Balance Appropriated	\$617
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Section 7. That the following account numbers in the Cemetery Fund appropriations budget be increased in the amounts indicated.

39-90-4020-8300	Principle Installment Pmts.	\$592
39-90-4020-8301	Interest Installment Pmts.	<u>25</u>
		\$617

Section 8. That the Estimated Revenues in the Library Trust Fund be increased in the amount of \$50 in the account Interest Earned, account number 11-40-3831-0000, to recognize additional interest earnings.

Section 9. That the following account number in the Library Trust Fund appropriations budget be increased in the amount indicated.

11-40-6300-9200	Admin. Charges to General Fund	\$ 50
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Section 10. That the Estimated Revenues in the Cemetery Trust Fund be increased in the amount of \$1,000 in the account Interest Earned, account number 12-30-3831-0000, to recognize additional interest earnings.

Section 11. That the following account number in the Cemetery Trust Fund appropriations budget be increased in the amount indicated.

12-30-6400-9205	Admin. Charges to Cemetery Fund	\$ 1,000
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Section 12. That the following account numbers in the Airport Terminal Grant appropriations budget be increased or decreased in the amount indicated.

66-90-4530-2102	Rental Building	\$ 4,350
66-90-4530-4500	Construction	(4,350)

Section 13. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 14. This ordinance shall become effective upon its adoption.

Adopted this the 22nd day of June, 2015.

ATTEST:
s/Cynthia S. Bennett
City Clerk

s/Mac Hodges
Mayor

NEW BUSINESS:
DISCUSSION – TOURNAMENT FEES

Councilman Beeman noted there are a couple of State tournaments coming up (one for baseball and one for softball). The State tournaments are an extension of the current recreation league program.

Councilman Beeman made a motion that Council waive any fees needed by the Leagues that are associated with the upcoming two State tournaments being hosted in Washington at the sports complex. Discussion held.

Mayor Pro tem Mercer asked who’s going to pay the expenses for the work that has to be done during those tournaments? Councilman Beeman stated the funds will have to come out of the respective departments’ budgets.

Mayor Pro tem Mercer continued by saying, “we have never waived fees, that I’m aware of. I have known members of this Council to sit right here and say, ‘We do not want to waive fees. We will make a donation to cover those expenses.’ Every one of us has pulled money out of our pockets to avoid waiving fees. To run a tournament that’s going to run four or five days ... there’s going to be a substantial amount of money that’s going to be required to maintain those fields during that tournament. I cannot see that the City should shoulder all that expense.”

Councilman Beeman noted, “I think with the amount of revenue generated off the taxes that these tournaments will bring in, with the amount of people that are coming in, staying in motels, eating in the city, the gas that they buy, any purchases they make while they’re here, that will certainly more than cover any expenses.”

Councilman Beeman and Mayor Hodges said fees for this type of tournament have been waived in the past. Mayor Hodges said former Mayor Jennings waived this type of fee about two years ago. Mayor Hodges did not feel comfortable waiving the fees and decided to let Council discuss this issue.

Chip Edwards, representing the local Cal Ripken baseball league, said the tournament would cost the organizers around \$4,600 in fees. The fees would cover City staff for the event, field rental and lighting cost. Mr. Edwards also said the fees that spectators are charged help cover expenses for umpires as well as tournament organizers. Some of those funds pay for improvements at the complex such as additional dirt on the fields and concrete near the concession stand.

Mayor Pro tem Mercer said waiving the fees would set a bad precedent and that others will ask for their fees to be waived as well.

Chip Edwards said that 45 teams are expected to play in the Cal Ripken league tournament at the end of July, including 25 teams that will drive at least 90 minutes to play in Washington.

Mayor Pro tem Mercer stated he didn't think \$1,600 would cover the expense for the required field work for the length of the tournament. He estimated the City would be contributing \$20,000 - \$30,000 for the two tournaments.

Kristi Roberson, Parks and Recreation Manager, said that in recent years, the City has not charged fees for any district, regional or state tournaments organized by leagues based in Washington. A new fee schedule taking effect July 1 calls for charging fees for such tournaments.

Councilman Brooks seconded the motion made by Councilman Beeman to waive any fees needed by the Leagues that are associated with the upcoming two State tournaments(baseball & softball) being hosted in Washington at the sports complex. Mayor Pro tem Mercer and Councilman Pitt voted against the motion resulting in a tie. Mayor Hodges voted for the motion. Motion carried 3-2.

APPROVE – REVISED CHAMBER EASEMENT AND EASEMENT AGREEMENT

Franz Holscher, City Attorney explained that the revised Deed of Easement and Easement Agreement regarding the Chamber of Commerce includes a change to “Section O, Chambers Default”. This section now allows a 30 day period after written notice to cure any default. This is a change from the original agreement the Council approved on June 8th.

By motion of Councilman Brooks, seconded by Councilman Beeman, Council approved the revised Deed of Easement and Easement Agreement with the Chamber of Commerce as presented.

NORTH CAROLINA
BEAUFORT COUNTY

PREPARED BY and RETURN TO:
RODMAN, HOLSCHER, PECK
& EDWARDS, P. A., Attorneys At Law
320 North Market St., P. O. Box 1747
Washington, NC 27889
Telephone: (252) 946-3122

THIS DEED OF EASEMENT AND EASEMENT AGREEMENT (hereinafter referred to as "Easement Agreement") is made and entered into as of the 22nd day of June, 2015, by and between the CITY OF WASHINGTON, a North Carolina municipal corporation ("CITY"), and the GREATER WASHINGTON CHAMBER OF COMMERCE, INC., a North Carolina corporation ("CHAMBER").

WITNESSETH

THAT WHEREAS, by virtue of that deed of dedication recorded in Deed Book 655, Page 589 of the Beaufort County Registry and that quitclaim deed recorded in Deed Book 1168, Page 478 of the Beaufort County Registry, the CITY is the owner of certain property located in the City of Washington, County of Beaufort, State of North Carolina labeled Stewart Parkway as shown on that map of Rivers and Associates, Inc. of record in Map Book 21, Page 44 of the Beaufort County Registry;

WHEREAS, by virtue of that deed recorded in Deed Book 654, Page 488 of the Beaufort County Registry and that quitclaim deed recorded in Deed Book 1168, Page 478 of the Beaufort

County Registry, the CITY is the owner of certain property located in the City of Washington, County of Beaufort, State of North Carolina, labeled Disposal Parcel #16 as shown on that map of Rivers and Associates, Inc. of record in Map Book 21, Page 50 of the Beaufort County Registry (the property described immediately above and the property described in the preceding paragraph are hereinafter collectively referred to as "City Property");

WHEREAS, CHAMBER received a deed from the CITY for that certain tract or parcel of land located in the City of Washington, County of Beaufort, State of North Carolina, more particularly described in Deed Book 837, Page 912, and more particularly shown and labeled as Metes & Bounds Area A1, B1, E1 & F1 on that certain map entitled "A Survey for: Greater Washington Chamber of Commerce, Inc." prepared by Sorrell Land Surveying, Inc. ("Sorrell") and attached hereto and incorporated herein by reference as if fully set forth ("Chamber Property");

WHEREAS, CHAMBER plans to construct certain improvements that will encroach upon portions of the above described and referred to City Property, which improvements are shown on that survey of Sorrell referred to above; and

WHEREAS, CHAMBER has requested that CITY convey to CHAMBER an easement for said encroachments and the CITY has agreed so to do, all subject to the terms, provisions and conditions stated herein and agreed to by the parties hereto.

NOW THEREFORE, subject to the terms, provisions, and conditions stated herein and agreed to by the parties hereto and in consideration of the sum of TEN DOLLARS AND NO/100 (\$10.00) and other good and valuable consideration, the receipt and legal sufficiency of which consideration is hereby acknowledged by the parties, the CITY does hereby give, grant, and convey unto CHAMBER rights and easements of encroachment over and upon the above described and referred to City Property, which easements of encroachment are more particularly described as follows:

LYING AND BEING IN THE CITY OF WASHINGTON, COUNTY OF BEAUFORT, STATE OF NORTH CAROLINA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Those easements of encroachment labeled Ramp Encroachment, Deck Encroachment, and Step Encroachment as more particularly shown on that certain survey entitled "A Survey for: Greater Washington Chamber of Commerce, Inc." prepared by Sorrell Land Surveying, Inc. and attached hereto and made a part hereof for a more complete and adequate description.

TO HAVE AND TO HOLD the rights and easements of encroachment hereby granted and above described ("Easements") to CHAMBER subject to the following.

- 1) In the event that the Chamber Property is no longer owned or used by CHAMBER exclusively for purposes commonly associated with chambers of commerce or that the Easements are no longer used or maintained consistent herewith, then in those events, this Easement Agreement shall be null and void and of no force and effect and any rights and Easements obtained hereunder by CHAMBER shall revert to the CITY.
- 2) Such easements, rights of way and restrictions of record in the Beaufort County Registry.
- 3) CHAMBER shall comply with the following terms, provisions, conditions, covenants, and requirements entered into by and between the parties hereto, which terms, provisions, conditions, covenants, and requirements shall be covenants of this Easement Agreement and this conveyance, running with the land until such time as the same may terminate or be terminated as provided for herein.
 - (a) Easements. The Easements are as defined hereinabove.
 - (b) Condition of Easements. CHAMBER's taking possession of the Easements shall be conclusive evidence as against CHAMBER that CHAMBER has accepted said Easements as is and that the CITY is under no duty to repair anything, furnish

constitute default hereunder. All such improvements and alterations made with CITY's consent shall be properly maintained by CHAMBER, in the CITY's sole discretion.

- (g) Inspections and Access. CHAMBER does hereby agree that the CITY shall be allowed to inspect the Easements at any time. CHAMBER shall provide CITY with such reasonable access over and across the Chamber Property and Easements as may be necessary to enable and assist the CITY in the use, care, maintenance and improvement of the CITY's adjacent properties.
- (h) Insurance. CHAMBER shall, at its expense, obtain and maintain the following insurance coverages for any period during which CHAMBER possesses the Easements.
 - i. Statutory Workers' Compensation Insurance in amounts required by law and, unless exempted by applicable law, Employer's Liability Insurance at a minimum of \$100,000.00 for bodily injury by accident each employee and \$100,000.00 for bodily injury by disease each employee, with a policy limit of \$500,000.00 bodily injury by disease.
 - ii. Commercial General Liability Insurance, including contractual liability, personal and bodily injury, property damage, advertising injury, premises, and operations coverage at a minimum of \$1,000,000.00 per occurrence and \$1,000,000.00 aggregate.
 - iii. Liquor Liability Insurance at a minimum of \$1,000,000.00 per occurrence and \$1,000,000.00 aggregate, if applicable.

The Commercial General Liability and Liquor Liability Insurance policies shall list the CITY as additional insured and provide that they are not subject to cancellation or

any services for, or otherwise improve in any way the Easements.

- (c) Assignment. CHAMBER shall not assign the Easements.
- (d) Use of Easements. CHAMBER shall use the Easements for the purposes specified herein and none other. The Easements described herein shall be used by CHAMBER only for the specific purposes described on said Sorrell survey and generally in furtherance of and consistent with the CHAMBER's use of the Chamber Property for general purposes commonly associated with chambers of commerce. CHAMBER shall not make any unlawful or offensive use of the Easements and agrees to keep the same in good maintenance and aesthetically pleasing appearance.
 - (e) Care and Maintenance. CITY shall not be responsible for any maintenance of the Easements and CHAMBER agrees, at CHAMBER's own expense as additional consideration for this Easement Agreement, to maintain the Easements in an attractive manner, including but not limited to keeping the deck, steps, ramp and other encroachments described on the Sorrell survey in an aesthetically pleasing appearance and in compliance with any and all ordinances of the City of Washington, including but not limited to zoning and public nuisance ordinances. CHAMBER shall pay for the repair of any and all damages to the Easements caused by CHAMBER, its agents, employees, invitees, and guests or any of them.
 - (f) Improvements and Alterations. The parties recognize that CHAMBER intends to make certain improvements and alterations to the Easements in order to use the Easements as herein provided. CHAMBER shall obtain any permit or other approval that may be required by the CITY for the same. Any alteration or improvement that is made by CHAMBER without written consent from the CITY or that is inconsistent, in the CITY's sole discretion, with any permit or other approval obtained from the CITY shall

reduction in coverage except after thirty (30) days following notice to the CITY.

CHAMBER shall deliver to the CITY certificates of insurance for all insurance policies required hereunder. The CHAMBER shall, within a reasonable period of time prior to the expiration of any such policy, furnish the CITY with certificates of insurance evidencing renewal thereof. The CITY may, in its sole discretion, require the CHAMBER to expand the form and/or increase the amounts of all such insurance.

- (i) Taxes and Assessments. CHAMBER shall be responsible for and promptly pay before default any and all real and personal property taxes or special assessments, if any, that may be levied or assessed against the Easements or any improvements or other property situated thereon, it being the mutual intention of the parties that the CITY shall not be required to pay any taxes on either real or personal property by reason of permitting CHAMBER to use the Easements as herein described. CHAMBER also agrees to indemnify the CITY against any loss or liability resulting from any and all claims or liens in connection with such taxes and assessments.
 - (j) Release, Waiver of Claims and Indemnity. CHAMBER shall occupy the Easements at CHAMBER's own risk. CHAMBER for itself, its invitees, customers, and guests and their respective joint venturers, partners, parents, subsidiaries, affiliates, and each of their respective officers, directors, employees, shareholders, agents, accountants, attorneys, insurance carriers, sureties, representatives, consultants and advisors, both past and present, hereby shall unconditionally waive, release, hold free and harmless, indemnify and defend the CITY and its present and former employees, officials, and elected officials in both their respective individual and official capacities, agents, personal representatives, attorneys, insurers, heirs, successors and assigns, and each of them, respectively, of, from, and for all and any manner of action or actions, cause and

causes of action, claims, demands, costs, loss of services, expenses, attorney's fees, compensation and all consequential, compensatory, general, special and/or punitive damages or liabilities, known or unknown, which may result directly or indirectly from or be in any way related to, connected with or growing out of this Easement Agreement, CHAMBER's possession, occupancy, as well as use of said Easements, including use by invitees, customers, and guests of CHAMBER. This provision shall survive the termination of this Easement Agreement and shall be in full force and effect beyond the termination of this Easement Agreement, however terminated.

(k) Adherence to Regulations. CHAMBER shall comply with all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of and agreements with all governments, departments, commissions, boards, Courts, authorities, agents, officials, officers and other parties, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to CHAMBER, and CHAMBER's use of the Easements. Further, CHAMBER shall comply with any and all local, state, federal or other rules and regulations as well as all applicable environmental rules and regulations, including but not limited to such rules and regulations regulating hazardous or similar substances or conditions, their storage or disposal. CHAMBER shall not intentionally or knowingly use the Easements for any purpose or in any manner in violation of any law, ordinance, rule, or regulation adopted or imposed by any federal, state, county, municipal body, or other governmental agency. CHAMBER further agrees to indemnify and hold the CITY harmless for any and all damage of any kind arising from CHAMBER's failure to comply with the aforementioned rules and regulations, including, but not limited to, the cost of clean-up,

(o) CHAMBER's Default. CHAMBER shall be in default of this Easement Agreement if CHAMBER fails to perform or satisfy any of the promises, duties, or obligations herein agreed to by CHAMBER or imposed upon CHAMBER by law if such failure to perform or satisfy is not cured within thirty (30) days after written notice thereof has been given by CITY to CHAMBER. Any such above described default shall, at the CITY's option, constitute a material breach of this Easement Agreement giving the CITY, in addition to all other rights and remedies as provided herein and provided by law, the right, without further notice or demand at the option of the CITY, immediately to i) terminate this Easement Agreement; ii) acquire legal title to the Easements by reversion; and iii) collect from the CHAMBER any damages resulting from such breach, including the cost of repairing the Easements, returning the Easements to its original condition, and any reasonable attorney's fees incurred as a result of the breach. Upon any termination pursuant to this paragraph, the CITY may, without liability to anyone, remove any personal property, fixtures, or other improvements located on or about the Easements, whether belonging to the CHAMBER or otherwise, and dispose of the same as the CITY deems proper at CHAMBER's expense.

(p) Survival of Terms. If any provision herein contained which by its nature and effect is required to be observed, kept or performed after any termination of this Easement Agreement, it shall survive any such termination of this Easement Agreement and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed. The parties expressly acknowledge that this survival of terms provision shall pertain to all applicable provisions of this Easement Agreement including but not limited to the provisions of this Easement Agreement which require CHAMBER to remove the personal property, fixtures and other improvements made or placed on or

restoration fees, mitigation costs, and attorney's fees caused or occasioned by CHAMBER.

(l) Relationship of Parties. In carrying out the terms and conditions of this Easement Agreement, CHAMBER is an independent party from the CITY and is not an agent or employee of the CITY. Nothing contained in this Easement Agreement shall create or be construed as creating a partnership, joint venture, or employee relationship between the CITY and CHAMBER.

(m) Waiver. No waiver of any condition, covenant or restriction of this Easement Agreement by either party shall be deemed to imply or constitute a further waiver of the same or any other condition, covenant or restriction of this Easement Agreement.

(n) Termination. Upon any termination of this Easement Agreement, CHAMBER shall quit and surrender the Easements to the CITY. Within ninety (90) days of any such termination of this Easement Agreement, CHAMBER shall retain ownership of and shall remove any items of personal property and shall, upon notice from the CITY, remove any and all improvements and alterations described in such notice, including fixtures, made or placed on or about the Easements by CHAMBER and, consistent with such notice, return the Easements to its condition prior to any installation or placement of such item(s) or making of any such improvements or alterations thereon. Failure by the CHAMBER to perform the obligations contained in this lettered paragraph (n) within said ninety (90) day period shall entitle the CITY to remove and dispose of said personal property, improvements, and alterations, including fixtures, and recover all of its costs and expenses in doing so from CHAMBER. Upon any termination of this Easement Agreement, CHAMBER shall execute any document that may be necessary to effectuate the reversion of legal title in the Easements to the City.

about the Easements by CHAMBER.

(q) Entire Agreement. This Easement Agreement contains the entire agreement between the parties hereto with respect to the CHAMBER's use and occupancy of the Easements and all prior and contemporaneous agreements are merged herein, and this instrument shall not be altered or modified except in writing signed by all parties hereto.

(r) CHAMBER's Intent to be Bound. By virtue of CHAMBER's signature below and the acceptance as well as recordation of this Easement Agreement, the CHAMBER agrees to be bound by and/or perform all of the terms, provisions, conditions, covenants, and requirements contained herein.

IN WITNESS WHEREOF, the CITY OF WASHINGTON, a municipal corporation, has caused this instrument to be executed in its name by its Mayor, attested by its City Clerk, and its corporate seal to be hereunto affixed, all by proper authority duly given; and the GREATER WASHINGTON CHAMBER OF COMMERCE, INC., a North Carolina corporation, intending to be legally bound hereby, has caused this instrument to be executed all by proper corporate authority duly given this the day and year first above written.

CITY OF WASHINGTON
By: Jay MacDonald Hodges (SEAL)
Jay MacDonald Hodges, Mayor

ATTEST

By: Cynthia Bennett (SEAL)
Cynthia Bennett, City Clerk



GREATER WASHINGTON CHAMBER OF COMMERCE, INC.

By: Walter Russell Gerard III (SEAL)
Walter Russell Gerard III, President

ATTEST

By: Robert Lewis Jones (SEAL) (Affix Corporate Seal)
Robert Lewis Jones, Secretary

NORTH CAROLINA
BEAUFORT COUNTY

The undersigned, a Notary Public of the County and State aforesaid hereby certified that Cynthia Bennett personally appeared before me this day, and being duly sworn by me acknowledged that she is Clerk of the City of Washington, and that by authority duly given and as the act of the City, the forgoing instrument was signed by its Mayor, sealed with its corporate seal and attested by her as its Clerk.

Witness my hand and notary seal this 23 day of June, 2015.

Reatha B. Johnson
Notary Public

My Commission expires: 12/14/2019

NORTH CAROLINA
BEAUFORT COUNTY

The undersigned, a Notary Public of the County and State aforesaid, hereby certified that Robert Lewis Jones appeared before me this day, and being duly sworn by me, acknowledged that he/she is Secretary of the Greater Washington Chamber of Commerce, Inc., and that by authority duly given and as the act of the Board the forgoing instrument was signed by its President, sealed with its corporate seal and attested by him/her as its Secretary.

Witness my hand and notary seal this 8 day of July, 2015.

Brent Glover
Notary Public

My Commission expires: Aug 26 2017

AMEND – CHAPTER 18, SECTION 123 – DESIGNATED PROHIBITED PARKING AREAS

Allen Lewis, Public Works Director explained that during the June Airport Advisory Board meeting, the issue of parking around the circle at the end of Airport Road was discussed, specifically, parking in front of the terminal annex building. Upon investigating the referenced ordinance, it was determined that the ordinance needed to be changed to prohibit parking around the entire circle on either side. The presented ordinance makes the suggested parking changes.

Mayor Pro tem Mercer suggested that there should be at least two loading/unloading spaces adjacent to the front door of the terminal for those needing to load/unload luggage. This designated parking area could be limited to a maximum time of 15-30 minutes.

Mr. Lewis noted that he could take this item back to the Airport Advisory Board to discuss the suggested amendments made by Mayor Pro tem Mercer.

By motion of Mayor Pro tem Mercer, seconded by Councilman Beeman, Council continued this item until further review and additional recommendations are presented by the Airport Advisory Board.

ADOPT – RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN APPLICATION FOR A NC RURAL INFRASTRUCTURE GRANT FOR A HOTEL AND ENTER INTO AN AGREEMENT WITH MID-EAST COMMISSION

A developer has plans to build a hotel and generate 20 jobs in Washington. The sewer and road infrastructure of the project is estimated to cost \$424,000 with \$100,000 being funded by the grant. The local government match is \$5,000 and will be paid by the developer. The Mid-East pre-application and administration fee of \$2,500 and expected \$10,000 respectively will be split with Beaufort County.

By motion of Councilman Beeman, seconded by Councilman Brooks, Council adopted a resolution authorizing the Mayor to execute an application for a NC Rural Infrastructure grant for a hotel and enter into an agreement with the Mid-East Commission to prepare the application.

**AUTHORIZING RESOLUTION BY GOVERNING BODY OF THE CITY OF WASHINGTON
Economic Infrastructure Grants Program**

WHEREAS, the North Carolina Rural Infrastructure Authority (RIA) has authorized the awarding of grants from appropriated funds to aid eligible units of government in financing the cost of infrastructure activities needed to create jobs; and

WHEREAS, the City of Washington needs assistance in financing an infrastructure project that may qualify for Rural Grants/Programs funding; and

WHEREAS, the City of Washington intends to request grant assistance for the Hotel project from the Economic Infrastructure Grants Program;

NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF WASHINGTON:

That the City of Washington will arrange financing for all remaining costs of the project, if approved for a grant.

That Jay MacDonald Hodges, Mayor, and successors so titled, is hereby authorized to execute and file an application on behalf of the City of Washington with the Rural Grants/Programs Section for a grant to assist in the above named infrastructure project.

That Jay MacDonald Hodges, Mayor, and successors so titled, is hereby authorized and directed to furnish such information as Rural Grants/Programs Section may request in connection with an application or with the project proposed; to make assurances as contained in the application; and to execute such other documents as may be required in connection with the application.

That the City of Washington has substantially complied or will substantially comply with all federal, state, and local laws, rules, regulations, and ordinances applicable to the project and to the grants pertaining thereto.

Adopted this the 22nd day of June, 2015.

ATTEST:

s/Cynthia S. Bennett
City Clerk

s/Jay MacDonald Hodges
Mayor

June 22, 2015

This agreement between the Mid-East Commission and the City of Washington is for the preparation of a North Carolina Department of Commerce Rural Economic Development Division Economic Infrastructure grant application for the City of Washington – Hotel Project.

The Mid-East Commission agrees to prepare and submit the required full application to the NC Department of Commerce Rural Economic Development Division.

The City of Washington hereby agrees to pay the Mid-East Commission \$2,500.00 for the completion of the previously mentioned item.

s/City of Washington Representative

s/Bryant Buck, Interim Executive Director
Mid-East Commission

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

s/Matt Rauschenbach
City Finance Officer

**ADOPT/AUTHORIZE – BUDGET ORDINANCE AMENDMENT AND AUTHORIZE THE
INTERIM CITY MANAGER TO EXECUTE DOCUMENT TO CLOSE PURCHASE
TRANSACTION OF PROPERTY LOCATED AT 415 W. 2ND STREET**

The City of Washington purchased the property located at 415 W. 2nd Street during the June 11th auction for \$80,000. We have provided a 10% bid bond and added the property to our insurance. The bid has to be approved by the bankruptcy judge before it can be closed and this will take approximately 60-90 days to confirm through the courts.

By motion of Councilman Pitt, seconded by Councilman Brooks, Council ratified the Mayor's authority to participate in the auction for the above referenced property as well as to execute the attached Sale Agreement Offer to Purchase, 2) adopted the attached budget ordinance amendment, and 3) authorized the Interim City Manager and/or Mayor to execute the documents necessary to close the purchase transaction of property located at 415 W. 2nd Street.

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE OF THE CITY OF WASHING,
N.C. FOR THE FISCAL YEAR 2014-2015**

BE IT ORDANINED by the City Council of the City of Washington, North Carolina:

Section 1. That the Estimated Revenues in the General Fund be increased for the purchase of 415 W. 2nd Street.
10-00-3991-9910 Fund Balance Appropriated \$80,000

Section 2. That the General Fund appropriations budget be increased or decreased in the following account:

10-00-4400-7100 Land Acquisition \$80,000

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 22nd day of June, 2015.

ATTEST:

s/Cynthia S. Bennett
City Clerk

s/Jay MacDonald Hodges
Mayor

ANY OTHER ITEMS FROM CITY MANAGER: MEETING DATES FOR JULY
Council will discuss the possibility of cancelling the July 27th Council meeting on July 13th.

ANY OTHER BUSINESS FROM THE MAYOR OR OTHER MEMBERS OF COUNCIL:
UPDATE ELECTRICITIES

Mayor Pro tem Mercer provided updates regarding ElectriCities, noting the sale may be delayed until late July or even early August. The City's current debt of \$100 million will be reduced to \$30 million. A reduction in the wholesale rate will be about 14% - 15%. After the sale is complete, Council should pass part of the reduction onto customers, after the Cost of Service Study.

Mayor Pro tem Mercer said residential load management is saving the City money and the commercial load management is not saving the City money. Fund Balance in the Electric Fund has dropped over the last three (3) years.

Mayor Pro tem Mercer will come back to Council at a future meeting with an update from ElectriCities.

Councilman Beeman mentioned the spike in revenues generated from tournaments and asked staff to bring this information to Council (90 days from July from the tournaments). Mr. Rauschenbach will bring back sales tax, occupancy tax, etc. for tournament events.

Mr. Rauschenbach voiced sales tax had a positive impact on City of Washington.

CLOSED SESSION: UNDER NCGS§143-318.11(a)(6) PERSONNEL AND 143-318.11(a)3)
ATTORNEY CLIENT PRIVELEDGE

By motion of Councilman Pitt, seconded by Mayor Pro tem Mercer, Council agreed to enter into closed session under NCGS § 143-318.11(a)(6) Personnel and 143-318.11(a)(3) Attorney Client Privilege at 6:48pm.

By motion of Councilman Beeman, seconded by Councilman Brooks, Council agreed to come out of closed session at 7:20pm.

By motion of Mayor Pro tem Mercer, seconded by Councilman Beeman, Council adopted the contract for hiring of Interim City Manager Bobby Roberson as presented in closed session with the conditions and specifications as contained in the contract.

BEAUFORT COUNTY
NORTH CAROLINA

AGREEMENT FOR EMPLOYMENT AS INTERIM CITY MANAGER

THIS AGREEMENT for Employment as Interim City Manager (hereinafter "Agreement") is made and entered into effective as of the 13th day of June, 2015 by and between the City of Washington, North Carolina (hereinafter "City"), by and through the City Council of Washington (hereinafter "Council") and Bobby Roberson, (hereinafter "Manager"), to establish and set forth the terms and conditions of the employment of the Manager as the Interim City Manager of the City.

WITNESSETH:

WHEREAS, the City desires to employ the services of the Manager as the Interim City Manager of the City pursuant to the terms, conditions and provisions of this Agreement;

WHEREAS, the Manager has agreed to accept employment as the Interim City Manager of the City subject to and on the terms, conditions, and provisions agreed to and set forth in this Agreement; and

WHEREAS, the Council and Manager believe it is important to thoughtfully consider guidelines that will be consistent with both the letter as well as the spirit of State law and, to the extent applicable, the City's charter and personnel policies; uphold the principle of "serving at the pleasure of the Council"; clearly define as well as incorporate the benefits to the community and organization; address the protection of the Manager through provisions that are reasonable in nature and scope when compared to professional practices as well as local/regional market conditions; and be appropriately funded within the City's budget.

NOW, THEREFORE, in consideration of the Manager accepting employment with the City, and other good and valuable consideration, including the mutual covenants herein contained, the receipt and legal sufficiency of which consideration are hereby acknowledged, the City and the Manager hereby contract, covenant, and agree as follows.

Section 1. Duties.

The Council hereby employs the Manager as Interim City Manager to perform the duties and functions of the City Manager as specified in the City Charter, the Laws of the State of North Carolina, this Agreement, and as the Council shall, from time to time, assign to the Manager consistent with the intent of this Agreement.

The Manager shall report for work on June 13, 2015 ("Commencement Date") to assist the current City Manager through June 20, 2015 and will commence his duties as well as employment as the Interim City Manager on June 21, 2015.

The Manager shall assist any subsequently hired City Manager in his/her transition for a reasonable amount of time as may be required by Council.

1 Agreement for Employment as Interim City Manager by and between the City of Washington and Bobby Roberson - Adopted 6/22/15

Section 7. Hours of Work and Time Off.

The Manager acknowledges the proper performance of the duties of the Interim City Manager will require the Manager to generally observe normal business hours and will also often require the performance of necessary services outside of normal business hours. The Manager agrees to devote such additional time as is necessary for the full and proper performance of the Manager's duties and that the compensation herein provided includes compensation for the performance of all such services. However, the City intends that reasonable time off be permitted the Manager, such as is customary for exempt employees so long as the time off does not interfere with the normal conduct of the office of the City Manager.

The Manager agrees to be available by telephone for consultation and advice on days that he is not physically working in the City. The Manager also agrees to respond to the City for emergency situations.

Section 8. General Provisions.

- A. Governing Law, This Agreement shall be construed in accordance with, and governed by, the laws of the State of North Carolina. Venue shall lie exclusively in Beaufort County, North Carolina.
- B. Entire Agreement, This Agreement incorporates all the agreements, covenants and understandings between the City and the Manager concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No other prior agreements or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.
- C. Amendment, This Agreement shall not be modified or amended except by a vote of the Council and, upon approval of the Council, a written instrument executed by the Manager and the duly authorized representative of the Council.
- D. Resignation/Termination, Notwithstanding anything herein to the contrary, the Manager serves at the pleasure of the Council and this Agreement may be terminated and canceled by Council, with or without cause, with or without notice, at any time and without recourse from the Manager. This Agreement shall be null and void upon receipt of a written notice from either the City or the Manager requesting termination of the Agreement.

(Signatures on following page)

3 Agreement for Employment as Interim City Manager by and between the City of Washington and Bobby Roberson - Adopted 6/22/15

Section 2. Term.

Subject to earlier termination as provided for in Section 8, Subsection D hereof, the term of this Agreement shall continue, and Manager shall serve as Interim City Manager, until such time as a permanent City Manager commences work.

Section 3. Salary.

The City agrees to pay the Manager, and the Manager agrees to accept, Two Thousand Dollars (\$2,000.00) per week actually worked by Manager (it is expressly understood that there may be at least one week that Manager will take off without pay due to previous commitments), payable in weekly pay periods or at the same time as other employees of the City are paid until this Agreement is terminated or until such time as Manager may receive a maximum, cumulative total of \$51,000.00 from the City during 2015. If or when Manager receives a maximum, cumulative total of \$51,000.00 from the City during 2015, Manager expressly agrees to volunteer his services hereunder as Interim City Manager without pay as may be necessary until December 31, 2015. After which and unless this Agreement is terminated or a permanent City Manager commences work, Manager will continue to receive Two Thousand Dollars (\$2,000.00) per week until such time as this Agreement is terminated.

Section 4. Automobile, Lodging, Meals, and Cell Phone.

The City shall assign the Manager a City owned vehicle to use while conducting City business. The City shall fully maintain such vehicle in a safe as well as good working condition and maintain an automobile liability insurance policy on the vehicle with the Manager as a named insured. The City shall fully pay or reimburse the Manager for documented expenses incurred in the maintenance and use of said vehicle. The City shall provide the Manager with a cellular telephone to use for conducting City business. Unless otherwise specifically provided for herein, any other personal auto expenses and use of a personal cell phone by the Manager are included in the Manager's salary. The Manager will be reimbursed by the City for any necessary and reasonable lodging, meal expenses, and incidentals that are related to his employment hereunder.

Section 5. Benefits.

It is mutually agreed that the Manager is not entitled to any City employee benefits (including but not limited to vacation, sick leave, holiday, etc.) except those specifically mentioned herein.

Section 6. Indemnification.

To the fullest extent permitted by law and except as specifically limited by City Ordinances, the City shall defend, save harmless and indemnify the Manager against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of the Manager's duties, and shall obtain and keep in full force and effect liability insurance, or risk pool coverage, including Public Officials coverage on a "wrongful act" basis, in sufficient amounts to assure accomplishment of such hold harmless and indemnification; provided that this section shall not be construed as creating any right, cause of action, or claim of waiver or estoppel for or on behalf of any third party, nor shall it be construed as a waiver or modification of the availability of the defense of governmental immunity or any other legal defense available to either the City or the Manager as to any third party, and provided further that the City shall not indemnify or hold harmless the Manager from and with respect to any claim or liability for which the conduct of the Manager is found by the courts to have been outside the course and scope of employment or his official capacity as Interim City Manager, grossly negligent or intentionally wrongful. The City may compromise and settle any such claim or suit, and will pay the amount of any settlement reached or judgment rendered on such claim or suit, for which the City has a duty to defend, save harmless and indemnify the Manager hereunder as hereinbefore more specifically provided. This indemnification shall extend beyond and survive the termination of employment and the expiration of this Agreement.

2 Agreement for Employment as Interim City Manager by and between the City of Washington and Bobby Roberson - Adopted 6/22/15

IN WITNESS WHEREOF, the City and the Manager have executed this Agreement effective as of the date first written above.


PRE-AUDIT CERTIFICATE

This Agreement has been pre-audited pursuant to North Carolina General Statute § 159-28 in the manner required by the Local Governmental Budget and Fiscal Control Act.

THE CITY OF WASHINGTON


Matt Rauschenbach, Chief Financial Officer

CITY OF WASHINGTON, NORTH CAROLINA


Jay MacDonald Hodges, Mayor

ATTEST:


Cynthia Bennett, City Clerk



AGREED AND ACCEPTED this the 22nd day of June, 2015.


Bobby Roberson, Interim City Manager

4 Agreement for Employment as Interim City Manager by and between the City of Washington and Bobby Roberson - Adopted 6/22/15

ADJOURN:

By motion of Councilman Beeman, seconded by Councilman Brooks, Council adjourned the meeting at 7:25pm until Monday, July 13, 2015 at 5:30 pm, in the Council Chambers.

Cynthia S. Bennett, MMC
City Clerk